

**Commissioner's Order
Rehabilitation of ACA Assurance
September 18, 2008
Imposition of Assessments**

The board of directors of ACA voted at telephonic meetings held on September 4, 2008, September 7, 2008 and September 18, 2008 to authorize an assessment of up to twenty-five percent (25%) of the face amount of each certificate on all outstanding ACA insurance policies issued in the United States and Canada. In these resolutions, the board of directors of ACA delegated to the Commissioner the authority to implement these assessments, including to determine the amounts and timing of any assessment or assessments to be applied to one or more lines of ACA's business; provided that the total assessment on any policy could not exceed 25% of the face value of any certificate.

Pursuant to RSA 418:18 IV, the board of directors of ACA has the authority to assess policies in the event of any impairment to ACA's reserves. ACA is not a member of any guaranty fund or association in the State of New Hampshire, and its members are, as a result, not entitled to the benefits of proceeds from such funds or associations. RSA 418:18 IV further states that if an assessment is not paid by the policyholders, it will either: (a) stand as an indebtedness against the certificate and draw interest not to exceed the rate specified for certificate loans under the certificates; or (b) constitute a proportionate reduction in benefits under the certificate.

On September 8, 2008, the Merrimack County Superior Court (Judge Mangones presiding) granted the Commissioner's Petition to Reopen Rehabilitation with respect to ACA Assurance ("ACA") (06-E-380) and on that date issued an Order Appointing Rehabilitator (the "Order"). ACA assented to the Commissioner's Petition and request for Orders, and ACA joined in the request that the Court grant the following Orders immediately and without hearing.

The Order stated in pertinent part that:

"(j) The Commissioner is authorized to impose assessments of up to twenty-five percent (25%) on policyholders of ACA..."

Based upon an initial review of the financial condition of ACA Assurance and the recommendation of the Commissioner's advisors, it has become clear that an immediate assessment of the full 25% of the face value of almost all ACA Assurance certificates in the United States and Canada is advisable. This assessment will be imposed effective as of the date of the Rehabilitation Order, September 8, 2008.

The assessment will apply to all ACA life insurance policies and annuities issued in the United States and Canada, with the following exceptions:

- (i) Tax-qualified annuities issued in the United States will not be assessed. These annuities will not be assessed at this time because of the adverse tax circumstances that may be imposed directly upon annuitants, including those subject to minimum distribution requirements;
- (ii) Credit life and disability insurance policies issued in Canada will not be assessed. These policies are 95% reinsured and an assessment at this time would likely create a windfall to the reinsurers, with little benefit to ACA Assurance;
- (iii) Credit accident and health insurance policies issued in Canada will not be assessed for the same reason set out immediately above;
- (iv) Pre-need life insurance policies issued in the United States already carry an assessment of 12%. This assessment will be increased to 25% and applied; and
- (v) Canadian annuities will not be assessed because these instruments are characterized in many instances as guaranteed investment contracts rather than insurance policies.

The assessments imposed by this Order shall remain in place for an indefinite period until further order of the Commissioner or the Merrimack Superior Court. The Commissioner specifically reserves the right to impose an assessment against the excluded policies or contracts set out above and otherwise to impose additional assessments as authorized under RSA Chapter 402-C. The Commissioner also specifically reserves the right to determine the manner in which the assessment will be reflected (i.e. as indebtedness against the certificate or as a reduction of benefits).

The Special Deputy Commissioner for the Rehabilitation of ACA, Peter A. Bengelsdorf, and any other representatives of the New Hampshire Insurance Department are hereby severally authorized and instructed to take all steps necessary or advisable to implement these assessments, including preparing and sending all appropriate notices to policyholders.

So Ordered,



Roger A. Sevigny
Commissioner
Rehabilitator of ACA Assurance
September 18, 2008